

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 18-cr-20351

v.

Honorable Nancy G. Edmunds

NIESHEIA TIBU, D-5,

Defendant.

/

ORDER DENYING MOTION FOR COMPASSIONATE RELEASE [253]

Before the Court is Defendant Niesheia Tibu's second motion to reduce her sentence to time served, filed under the authority of the compassionate release provision of 18 U.S.C. § 3582(c)(1)(A)(i), as amended by § 603(b)(1) of the First Step Act of 2018, Pub L. 115-391, 132 Stat. 5194, 5239. (ECF No. 253.) This statute grants authority to the district court to modify a term of imprisonment for "extraordinary and compelling reasons."

See *United States v. Jones*, 980 F.3d 1098, 1100 (6th Cir. 2020). District courts have broad authority to define "extraordinary and compelling," but "relying on official guidelines from the CDC is a common practice" when doing so. *Id.*; *United States v. Elias*, 984 F.3d 516, 521 (6th Cir. 2021).

Defendant first filed a *pro se* Motion for Compassionate Release approximately one year ago (ECF No. 215) based on her medical condition and the novel coronavirus pandemic (COVID-19). The Government filed a response opposing Defendant's motion (ECF No. 217) and the Court issued an order on September 17, 2020 denying Defendant's motion (ECF No. 222).

On June 23, 2021, Defendant filed the present motion in which she informs the court of increased health concerns that she has developed since the resolution of her previous motion. (ECF No. 253.) But, as of July 28, 2021, the Bureau of Prisons has released Defendant to home confinement pursuant to the CARES Act of 2020. (ECF No. 258-1.) Thus, Defendant's risk of contracting severe illness from COVID-19 has been substantially reduced.

Because Defendant has been released from the Alderson Federal Prison Camp and is currently residing at her residence, the Court finds there are no extraordinary and compelling reasons to reduce Defendant's sentence to time served. Accordingly, the Court agrees with the government that Defendant should serve the remainder of her term under the conditions set forth by the Bureau of Prisons' Home Confinement Program. (See ECF No. 258.) Pursuant to E.D. Mich. Local Rule 7.1, the Court declines to hold a hearing on this matter. Defendant's second motion for compassionate release (ECF No. 253) is DENIED.

SO ORDERED.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: August 7, 2021

I hereby certify that a copy of the foregoing document was served upon counsel of record on August 7, 2021, by electronic and/or ordinary mail.

s/Lisa Bartlett
Case Manager